

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**RUEBEN RAY SMITHERMAN,** )  
 )  
 **Plaintiff,** )  
 )  
 **v.** ) **CASE NO. 2:05-cv-1222**  
 )  
 **PENNSYLVANIA LIFE INSURANCE** )  
 **COMPANY, individually and as successor)**  
 **in interest to EXECUTIVE FUND LIFE** )  
 **INSURANCE COMPANY,** )  
 )  
 **Defendant.** )

**MOTION TO SUBSTITUTE**

COMES NOW Defendant Pennsylvania Life Insurance Company ("Penn Life") and files its Motion to Substitute. In support of this Motion, Penn Life states as follows:

1. On May 18, 2006 Penn Life filed its Motion for Leave to Amend Answer and, as an attachment, the Amended Answer. Due to an electronic error, only the Amended Answer was filed.

2. Therefore, Penn Life hereby withdraws its previous filing and substitutes the Motion for Leave to Amend Answer with the Amended Answer attached.

WHEREFORE, Penn Life respectfully requests that this Court grant its Motion to Substitute.

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/s/ Will A. Smith  
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Will A. Smith  
Attorneys for Defendant  
Pennsylvania Life Insurance Company

**OF COUNSEL:**  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing has been served upon the following listed person(s) by placing a copy of same in the United States mail, postage prepaid and properly addressed, this the 18th day of May, 2006.

Robert G. Methvin Jr.  
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The Highland Building  
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/s/ Will A. Smith  
OF COUNSEL